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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,931	11/24/2003	Keith Donald Kammler	14936US02	5239

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EXAMINER	
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ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
11/04/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/720,931	KAMMLER ET AL.	
	Examiner	Art Unit	
	Paul A. D'Agostino	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 August 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,6 and 91-97* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,6 and 91-97* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11/24/2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This responds to Applicant's Arguments/Remarks filed 08/25/2008. Claims 1, 2, and 6 have been amended. Claims 4-5 and 7-90 have been cancelled. Claims 91-97 have been added. Claims 1-3, 6, 91-97 are now pending in this application.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/25/2008 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-3, 6, and 91-97 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,511,377 to Weiss (Weiss) of record.

In Reference to Claims 1, 91, and 93-94

Weiss discloses a method of operating a gaming system having a central authority (Fig. 1, On-Line Accounting and Game Information System 60) associated with a database (Player Database 62) and interconnected to a plurality of gaming machines (Fig. 1, G1-Gn), comprising:

establishing in the database a player account associated with at least one player (Fig. 5);

providing a player card the one player, said player being associated with the player account (Fig. 6, Issue Player Card);

identifying a start of a first regular gaming session associated with the player account, wherein the start of the first regular gaming session occurs in response to an indication that the player card is inserted into the one gaming machine (Fig. 7, Play Gaming Machine);

identifying an end of the first regular gaming session associated with the player account, wherein said end of the first regular gaming session occurs in response to an indication that the player card is removed from the one gaming machine (Fig. 7, Player Finishes Playing Gaming Machine);

collecting first activity data from said one gaming machine, wherein said first activity data corresponds to activity on the one gaming machine during the first regular gaming session (Col. 6, Lines 21-37; Col. 22, Lines 15-32);

identifying a start of a first virtual gaming session associated with the player account, wherein said start of the first virtual gaming session occurs in response to an indication that value is entered on the gaming machine (Weiss teaches of virtual gaming sessions under three conditions a) when there are credits but a period of inactivity on the machine (Col. 19 Lines 1-7), b) when there are credits but the card is left in the machine and no PIN is entered (Col. 19 Lines 8-18) and c) when there are credits on the machine but the player does not transfer the credits to his account (Col. 19 Lines 19-21). In any case, giving the claim the broadest reasonable interpretation these credits are still associated with the player who earned them, they are just unclaimed. Weiss discloses “[t]ypically, the cashless gaming system tracks all player activity" (Col. 3 Lines 50-54; Col. 4 Lines 41-44) such that it is reasonable to infer that once activity is

associated with an account it is tracked so that it can be applied to the account when claimed to inter alia further an object of the present invention "to provide a system as characterized above which includes real-time accounting means communicating with both the card reading means and the player's card to enable any particular gaming machine for game play to immediately update status as a function of player wagering activity);

identifying an end of the first virtual gaming session associated with the player account, wherein said end of the first virtual gaming session occurs before the start of the first regular gaming session and in response to the indication that the player card is inserted into the one gaming machine (Col. 19, Lines 1- 21, wherein play may continue on the gaming machine using said remaining credits until the account balance is depleted or until a pre-determined timeout session occurs. (Fig. 6, Insert Card into Card Reader at Slot Machine; and wherein "Next, the player approaches any gaming machine Gn and inserts the player card into the card reader 82…" Col. 7 Lines 25-26);

collecting second {third} activity data from the one gaming machine, wherein said second activity data corresponds to activity on one gaming machine during the first virtual gaming session (it has been previously discussed that all gaming activity is tracked (Col. 3 Lines 50-54; Col. 4 Lines 41-44)); and

transmitting and storing the first and second {third} activity data to the central authority (Col. 19, Lines 1-21. Weiss tracks all activity and doesn't distinguish between first and second data).

However, Weiss does not automatically associate the value on the gaming

machine with a player account without a PIN number.

Examiner reasonably believes Applicant has merely automated associating virtual gaming sessions with a player in only those cases of condition b) and c) (above). For condition a) the credits lapse back to the player's account automatically). Comparing Applicant's claims to the teachings of Weiss, we see Weiss requires a card and a PIN number to be entered manually to transfer value in either condition b) or c) to a player's account whereas Applicant eliminates the manual PIN entry.

Applicant's Claims 1 and 91

value on machine → virtual play → card in → regular play → card out → virtual play

/---------- claim 1----------/------- +claim 91---------/

Weiss

value on machine → virtual play → card in → regular play → card out → virtual play

& enter PIN

Applicant's Claims 93 and 94

card in → regular play → card out → virtual play → card in→ regular play

/---------- claim 93----------/-------- +claim 94 -------/

Weiss

card in → regular play → card out → virtual play → card in→ regular play

& enter PIN & enter PIN

Weiss discloses the claimed invention except for automatically associating the value on the gaming machine with a player account. It would have been obvious to one of ordinary skill in the art at the time the invention was made to automatically credit the player's account as another way to fulfill the security concerns of Weiss who provides for a PIN number (Col. 2 Lines 61-64), since it has been held broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. In re Venner, 120 USPQ 192.

In Reference to Claim 2, 3, 6, 92, and 95-97

Weiss discloses a system substantially equivalent to Applicant's claimed invention wherein the method of operating a gaming system having a central authority (Fig. 1, On-Line Accounting and Game Information System 60) associated with a database (Player Database 62) and interconnected to a plurality of gaming machines (Fig. 1, G1-Gn) as described above. Weiss also discloses coins as value that can be entered ion said gaming machine Gn ("coins" Col. 13 Line 63). However, Weiss does not specifically disclose that the step of transmitting first and second activity data at two separate times, nor that the first activity data is transmitted at the end of said first regular gaming session and said second activity data is transmitted at the end of said first virtual gaming session, nor that the step of transmitting occurs at a single time and said single time is at the end of the first regular gaming session.

Nonetheless, the times at which said first and second activity data are transmitted does not affect the overall outcome of the system. That is, whether first and

second activity data transmission occurs together or separately has no effect on the overall end result of the system as the final account balance will be the same regardless of when the game data is transmitted.

It would have been an obvious matter of design choice to one of ordinary skill in the art at the time of the invention to transmit the first and second activity data at any time during the gaming transaction. Applicant has not stated any criticality of this limitation and overall, the method of Weiss would yield equivalent results having used the system as intended.

Response to Arguments

6. Applicant's arguments with respect to claims 1-3, 6 and 91-97 have been considered but are not persuasive. Applicant argues (see Applicant's Arguments/Remarks page 24-25) that the prior art does not disclose any time periods, occurring outside of a player's regular gaming session during which data is generated and used as the basis for information that is stored in the same player's account. Examiner respectfully disagrees. Weiss teaches of virtual gaming sessions under three conditions a) when there are credits but a period of inactivity on the machine (Col. 19 Lines 1-7), b) when there are credits but the card is left in the machine and no PIN is entered (Col. 19 Lines 8-18) and c) when there are credits on the machine but the player does not transfer the credits to his account (Col. 19 Lines 19-21). Additionally, Applicant argues that Weiss fails to disclose collecting and transmitting data during virtual activity time periods. However, examiner reverses that position and cites Weiss

("[t]ypically, the cashless gaming system tracks all player activity" (Col. 3 Lines 50-54; Col. 4 Lines 41-44)). Applicant also argues that the data must be for the same player. Examiner reasonably believes Weiss teaches that this method can be for the any player so long as the player has an account, a tracking card, and a PIN number.

7. Applicant argues (see Applicant's Arguments/Remarks page 25 and 27) that Weiss teaches away from collecting data during the virtual activity session. Examiner respectfully disagrees for two reasons. First, Weiss tracks all player activity. Applicant's understanding is misplaced in that Weiss leaves open that another player can come along and inherit the value on an abandoned machine with the proper credentials of a player tracking card and PIN. Weiss explicitly discloses tracking all activity. Second, Weiss states all transactions are tracked and that if a player does not transfer credit to his account it is in essence up for grabs. However, more is needed to constitute teaching away since Weiss does not "criticize, discredit, or otherwise discourage" the solution claimed to make automatic what he requires to be done manually using a tracking card and a PIN (MPEP 2123).

8. Office Action does not rely on Acres since upon closer reading, activity tracking is supported by Weiss. Thus, Applicant's arguments (see Applicant's Arguments/Remarks page 26) with respect to Acres are moot.

9. Applicant argues (see Applicant's Arguments/Remarks page 28) that a player tracking card must be inserted in order for player tracking activity to occur. Examiner respectfully disagrees. As has been previously discussed, Weiss tracks all activity at all

times and requires in some cases a player tracking card and PIN number to credit an appropriate account.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is provided in the Notice of References Cited.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. D'Agostino whose telephone number is (571)270-1992. The examiner can normally be reached on Monday - Friday, 7:30 a.m. - 5:00 p.m.. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/
Supervisory Patent Examiner, Art Unit 3714

/Paul A. D'Agostino/
Examiner, Art Unit 3714